

Introduced by Senators Liu and Yee

March 10, 2009

Senate Constitutional Amendment No. 18—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of Article XIII D thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SCA 18, as introduced, Liu. Local government: property-related fees.

The California Constitution, with the exception of fees or charges for sewer, water, and refuse collection services, conditions the imposition or increase of a property-related fee or charge upon approval by either a majority vote of the owners of the properties subject to the fee or charge or, at the option of the agency imposing the fee or charge, by a $\frac{2}{3}$ vote of the voters residing in the area affected by the fee or charge.

This measure would additionally exclude fees and charges for stormwater and urban runoff management from these approval requirements for the imposition or increase of a property-related fee or charge.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2009–10 Regular
- 3 Session commencing on the first day of December 2008, two-thirds
- 4 of the membership of each house concurring, hereby proposes to
- 5 the people of the State of California, that the Constitution of the
- 6 State be amended as follows:
- 7 That Section 6 of Article XIII D thereof is amended to read:

1 SEC. 6. Property Related Fees and Charges. (a) Procedures
2 for New or Increased Fees and Charges. An agency shall follow
3 the procedures pursuant to this section in imposing or increasing
4 any fee or charge as defined pursuant to this article, including, but
5 not limited to, the following:

6 (1) The parcels upon which a fee or charge is proposed for
7 imposition shall be identified. The amount of the fee or charge
8 proposed to be imposed upon each parcel shall be calculated. The
9 agency shall provide written notice by mail of the proposed fee or
10 charge to the record owner of each identified parcel upon which
11 the fee or charge is proposed for imposition, the amount of the fee
12 or charge proposed to be imposed upon each, the basis upon which
13 the amount of the proposed fee or charge was calculated, the reason
14 for the fee or charge, together with the date, time, and location of
15 a public hearing on the proposed fee or charge.

16 (2) The agency shall conduct a public hearing upon the proposed
17 fee or charge not less than 45 days after mailing the notice of the
18 proposed fee or charge to the record owners of each identified
19 parcel upon which the fee or charge is proposed for imposition.
20 At the public hearing, the agency shall consider all protests against
21 the proposed fee or charge. If written protests against the proposed
22 fee or charge are presented by a majority of owners of the identified
23 parcels, the agency shall not impose the fee or charge.

24 (b) Requirements for Existing, New or Increased Fees and
25 Charges. A fee or charge shall not be extended, imposed, or
26 increased by any agency unless it meets all of the following
27 requirements:

28 (1) Revenues derived from the fee or charge shall not exceed
29 the funds required to provide the property related service.

30 (2) Revenues derived from the fee or charge shall not be used
31 for any purpose other than that for which the fee or charge was
32 imposed.

33 (3) The amount of a fee or charge imposed upon any parcel or
34 person as an incident of property ownership shall not exceed the
35 proportional cost of the service attributable to the parcel.

36 (4) ~~No~~ A fee or charge ~~may~~ *shall not* be imposed for a service,
37 unless that service is ~~actually~~ used by, or immediately available
38 to, the owner of the property in question. Fees or charges based
39 on potential or future use of a service are not permitted. Standby
40 charges, whether characterized as charges or assessments, shall

1 be classified as assessments and shall not be imposed without
2 compliance with Section 4.

3 (5) ~~No~~ A fee or charge ~~may~~ *shall not* be imposed for general
4 governmental services including, but not limited to, police, fire,
5 ambulance, or library services, ~~where~~ *if* the service is available to
6 the public at large in substantially the same manner as it is to
7 property owners. Reliance by an agency on any parcel map,
8 including, but not limited to, an assessor's parcel map, may be
9 considered a significant factor in determining whether a fee or
10 charge is imposed as an incident of property ownership for
11 purposes of this article. In any legal action contesting the validity
12 of a fee or charge, the burden shall be on the agency to demonstrate
13 compliance with this article.

14 (c) Voter Approval for New or Increased Fees and Charges.
15 Except for fees or charges for sewer, water, ~~and stormwater and~~
16 ~~urban runoff management, or refuse collection services,~~ *no*
17 ~~property-related~~ *a property-related* fee or charge shall *not* be
18 imposed or increased unless and until that fee or charge is
19 submitted and approved by a majority vote of the property owners
20 of the property subject to the fee or charge or, at the option of the
21 agency, by a two-thirds vote of the electorate residing in the
22 affected area. The election shall be conducted not less than 45 days
23 after the public hearing. An agency may adopt procedures similar
24 to those for increases in assessments in the conduct of elections
25 under this subdivision.

26 (d) Beginning July 1, 1997, all fees or charges shall comply
27 with this section.